IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 14 OF 2002

Vinayak Shridhar Nikam)
age 49, Indian Inhabitant, Shrikunj, Navghar,)
At and Post Vasai Road (E), Tal. Vasai,)
District Thane.)... Petitioner

versus

1. Navghar Manickpur Nagar Parishad,)
Navghar, Vasai Road (West),)
Dist. Thane-401 202.)

2. The President,)
Navghar Manickpur Nagar Parishad,)
Navghar, Vasai Road (West),)
Dist. Thane-401 202.)

3. The Chairman, Water Committee,)
Navghar Manickpur Nagar Parishad,)
Navghar, Vasai Road (West),)
Dist. Thane-401 202.)...Respondents

Mr. V.P. Patil for the petitioner.
Ms. Sangeeta Patil, instructed by Mr. Prasad S. Dani, for the respondents.

CORAM: **SWATANTER KUMAR, C.J.** &
S.C. DHARMADHIKARI, J.

Judgment reserved on : April 12, 2007
Judgment delivered on: April 19, 2007

JUDGMENT (Per Swatanter Kumar, C.J.):

1. This so-called public interest litigation was filed by the petitioner in the year 2002, questioning the correctness of re-fixing of deposit for water connections granted by the respondent Nagar Parishad.

2. The petitioner is a resident of Vasai, District Thane and was a member of Navghar Divanman Group Gram Panchayat. The first respondent-Parishad, through its Chief Officer made declaration in terms of Rule 3 of the Navghar Manickpur Nagar Palika (Water Supply and Special Water Tax) Bye-laws, 1999, fixing different rates of deposit to be paid by the consumers for ½ inch water connection. These rates were to be for different areas. According to the petitioner, the rates are as under:

"Particulars	Deposit for water connection (Rs.)
1. Every flat in Housing Society	2000/-
2. Each tenement in R.C.C. Chawl	500/-
3. House with tiles, tin, load bearing chawl for each tenement.	300/-
4. R.C.C. Bungalow.	5000/-
5. Houses including load bearing/wall	

with bricks/walls with A.C. Sheets/ houses with Manglori Tiles and houses with tiles	2000/-
5. Houses with earthen walls, chawls with tins and houses with roofed tiles.	1000/-”

3. The above fixation of rates, according to the petitioner, is arbitrary, discriminatory and has no rationale basis. It is also averred that the first respondent collected Rs. 20,000/- to 30,000/- for ½ inch connections to certain buildings/societies and in terms of clause (3) of Rule 4 of the Bye-laws of 1999, the water connection charges for ½ inch are shown as Rs. 500/-. However, they are collecting amount even at the rate of Rs. 1,500/-, thus acting arbitrarily and discriminately. On this premise, the petitioner claims for a relief that the respondents should be directed to re-fix the rate of deposit for water connections and to charge uniform amount for each water connection irrespective of status of person or building. The petitioner has also prayed for refund of the excess amounts collected by the respondents.

4. According to the respondents, the rates were fixed in terms of Resolution No. 916 passed by the Parishad on 16th February, 1999, for granting water supply to the old buildings by charging Rs. 2,500/-

per building as deposit and Rs. 1,500/- per building as connection fees. This resolution was stayed by the Collector, Thane, but before the stay was given, the resolution had been implemented substantially. The Parishad exercising its authority thereafter passed a resolution on 18th January, 2001, and different amounts were considered to be proper to be charged from different kinds of buildings, keeping in view the obvious differentiation. The Collector granted approval to these rates vide his letter dated 5th November, 2001, while rectifying and correcting the rates specified in Resolution No. 2074 of the Parishad. In terms of this resolution, Rs. 2,500/- per building has been recovered and the resolution has been implemented in its entirety.

5. Firstly, we have serious doubts about the maintainability of the present petition as a public interest litigation. Apparently, it is an individual interest and no other person or body has questioned the fixation of rates in terms of the resolution of the Parishad. Secondly, we must also keep in mind that fixation of tariff in exercise of subordinate legislative power by the Parishad would hardly call for judicial intervention. Fixation of rates would primarily fall in the jurisdiction of the prescribed authorities. In their wisdom they have

drawn a differentiation between a Bungalow and a flat and even a smaller unit of a poor person. This patently has rationale basis. If the Parishad feels that the people staying in bungalow who pay larger amount than the persons staying in a hut or a small house, keeping in view its social structure and limitation of the society within the jurisdiction of the Parishad, the said decision would not suffer from arbitrariness or vice of discrimination. The present petition is without merit and deserves to be dismissed which we hereby do. There shall be no order as to costs.

CHIEF JUSTICE

S. C. DHARMADHIKARI, J.